

Order

Michigan Supreme Court
Lansing, Michigan

September 14, 2006

Clifford W. Taylor,
Chief Justice

130888 & (28)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 130888
COA: 266906
Tuscola CC: 04-009004-FH
04-009005-FH

MICHAEL JEFFREY ARNOLD,
Defendant-Appellant.

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the February 27, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Tuscola Circuit Court for resentencing. A defendant facing incarceration has the right to counsel at all critical stages of the criminal process. *People v Williams*, 470 Mich 634, 641 (2004). Sentencing is a critical stage. *People v Pubrat*, 451 Mich 589, 594 (1996). The complete denial of counsel at a critical stage of a criminal proceeding, as occurred in this case, is structural error requiring automatic reversal. See *Gideon v Wainwright*, 372 US 335, 344-345; 83 S Ct 792; 9 L Ed 2d 799 (1963); *People v Duncan*, 462 Mich 47, 51-52 (2000).

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 14, 2006

Corbin R. Davis

Clerk